

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Magic Allen, Parent and Natural Guardian of
Devanir Sincere Wynn, a minor age 13

(b) County of Residence of First Listed Plaintiff Bronx
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jack M. Bernard, 930 Land Title Building
100 South Broad Street, Philadelphia, PA. 19110
(215) 665-0666 (phone) (267) 514-8609 (facsimile)

DEFENDANTS

Park Run Associates
Park Run Management, LLC et al
Hamilton Square Apartments
County of Residence of First Listed Defendant Lehigh County
Dubban Kuss
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF ☐ 1 DEF ☒ 1
Incorporated or Principal Place of Business In This State PTF ☐ 4 DEF ☒ 4
Citizen of Another State PTF ☒ 2 DEF ☐ 2
Incorporated and Principal Place of Business In Another State PTF ☐ 5 DEF ☐ 5
Citizen or Subject of a Foreign Country PTF ☐ 3 DEF ☐ 3 Foreign Nation PTF ☐ 6 DEF ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Section 1332

Brief description of cause:
Premises Liability; Negligence

JUL 17 2014

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE
07/16/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

JKG

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

14 4313

Address of Plaintiff: 811 Adea Avenue, Bronx, NY. 10467

Address of Defendant: 2635 Prospect Avenue, Allentown, PA. 18103; 1620 East Cedar Street, Allentown, PA

Place of Accident, Incident or Transaction: 117 South Fourth Street, Allentown, PA. 18103

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge: AIA Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☒ Other Personal Injury (Please specify) Premises Liability
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 7-16-14

James M. Beard
Attorney-at-Law

CIV. 609 (5/2012)

26693

Attorney I.D.#

JUL 17 2014

JKG

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORMMagic Allen, Parent and Natural Guardian of
Devanir Sincere Wynn, a minor, age 13

v.

Park Run Associates, Park Run Management T/A
Hamilton Square Apartments and Dabbah Kassis
T/A Field of Dreams Landscaping

AIR

CIVIL ACTION

14 4313

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, coWISel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

JULY 17, 2014

Date

JACK M BERNARD

Attorney-at-law

(215) 665-0666

Telephone

(267) 514-8609

FAX Number


 Attorney for Plaintiff

JACKBERNARD@VERIZON.NET

E-Mail Address

JUL 17 2014

JKG

MAGIC ALLEN, Parent and Natural Guardian
of DEVANIR SINCERE WYNN, a minor age 13

Plaintiff

vs.

PARK RUN ASSOCIATES

and

PARK RUN MANAGEMENT T/A
HAMILTON SQUARE APARTMENTS

and

DABBAH KASSIS T/A FIELD OF DREAMS
LANDSCAPING

Defendants

UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF PENNSYLVANIA

14 4313

NO.:

COMPLAINT

I – JURISDICTION AND VENUE

1. Plaintiffs Magic Allen and Devanir Sincere Wynn are citizens of the State of New York. All defendants are citizens of the Commonwealth of Pennsylvania, having their principal places of business in the Commonwealth of Pennsylvania. The amount in controversy, exclusive of interest and costs, exceeds the sum provided in Title 28 U.S.C. § 1332.

2. Venue lies in this District, in that the events giving rise to the claims alleged in this Complaint occurred in Lehigh County, Pennsylvania, and that all parties defendant are located in Lehigh County.

II – IDENTITY OF THE PARTIES

3. Magic Allen (hereafter “Allen”) is the single parent of Devanir Sincere Wynn, (hereafter “Devanir”). At all time material to the cause of the action alleged herein and upon date

of this Complaint, Devanir and Allen are members of the same household. Allen is authorized by law to bring this action.

4. Upon information and belief, Park Run Associates is a partnership having an office at 2635 Prospect Avenue, Allentown, Pennsylvania.

5. Upon information and belief, Park Run Management Co. is a Pennsylvania Business Corporation having an office at 2635 Prospect Avenue Allentown, PA. 18103.

6. Upon information and belief, Dabbah Kassis is the owner of Field of Dreams Landscaping, a business entity located at 1620 East Cedar Street, Allentown, Pennsylvania.

III – FACTUAL ALLEGATIONS

7. On July 4, 2009, Devanir, then age 8, was visiting his uncle, Derrick Allen, who resided at 117 South 4th Street, Apartment 206, in Allentown, Pennsylvania (hereafter “S. 4th Street.”). He arrived by himself about one week before, after the end of his school semester, transported by a van service. Other family members arrived on July 4.

8. Derrick Allen arranged a barbecue in front of S. 4th Street. There were two benches in front, one on the right and one on the left. Derrick Allen was sitting on one of the benches. Devanir was playing with his sisters and cousins. There were tree branches on the ground and a crack in the pavement. Devanir tripped on the branches when his foot stepped in the crack.

9. As a direct and proximate result of the trip and fall, Devanir fractured his left femoral shaft. He was taken to Lehigh Valley Hospital. On July 5, 2009, a surgical procedure was done involving insertion of two rods into the bone. Devanir remained at Lehigh Valley Hospital until July 8, 2009 when he was discharged to home.

10. Thereafter, Devanir was under the care of an orthopedic physician at Montefiore Medical Center, Bronx, NY. and physical therapists. He resumed full activities at the end of December 2009. He has a permanent deformity in his left thigh. The implants are buried within the bone.

11. Devanir was in severe pain after he fell until he received medication that lessened but did not relieve his pain. The foreign body implanted in his left leg causes pain from time to time. His gait is normal except on occasion when exercising in cold weather. His prognosis as he gets older is uncertain.

12. As a direct and proximate result of his trip and fall on July 4, 2009, medical and hospital costs were paid by one or more third parties who seek reimbursement.

13. As a further direct and proximate result, expenses have been incurred by plaintiff for prescription and non-prescription medication, and travel to and from medical providers.

14. As a further direct and proximate result of his injury it is likely that there will be future expenses for care and treatment.

15. As a further direct and proximate result of his 2009 injury, it is likely that Devanir's activities will be adversely affected in years to come.

**IV – COUNT ONE – PLAINTIFF v PARK RUN ASSOCIATES AND PARK RUN
MANAGEMENT CO. T/A
HAMILTON SQUARE APARTMENTS – PREMISES LIABILITY**

16. Plaintiff repeats, realleges and incorporates by reference the foregoing averments of this Complaint.

17. Defendants had a duty to maintain the premises at S. 4th Street in a safe condition, especially for tenants' invitees. This duty exists by operation of law and by implied terms of the lease agreement between landlord and tenant, whether written or oral.

18. On the date of Devanir's injury, the premises were not in a reasonably safe condition by reason of a defect in the pavement that had existed for a lengthy period of time, as well as tree branches on the ground.

19. Defendants were negligent by their failure to provide a safe area in front of the building on S. 4th Street that was intended for use by tenants and their guests.

20. Defendants breached their duty of reasonable care of the premises, causing Devanir's injuries.

V – COUNT TWO: PLAINTIFF v DABBAH KASSIS
T/A FIELD OF DREAMS LANDSCAPING

21. Plaintiff repeats, realleges and incorporates by reference the averments set forth in Paragraphs "1" through "15" hereinabove.

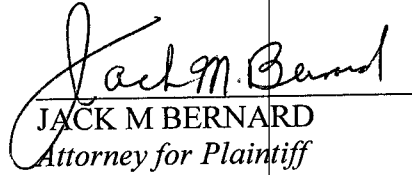
22. Defendant by his agents, servants and employees carelessly and negligently trimmed tree branches in the vicinity of S. 4th Street so that they accumulated on the ground in a manner likely to cause injuries, especially to children at play, and carelessly and negligently failed to remove the fallen branches.

23. Defendant carelessly and negligently failed to train and supervise his agents, servants and employees with respect to safe work procedures, and to monitor their activities.

24. Defendant carelessly and negligently failed to prepare and distribute safety rules and procedures for tree trimming and removal of debris caused thereby.

25. As a direct and proximate result of defendant's carelessness and negligence as aforesaid, Devanir suffered the injuries alleged in preceding paragraphs of this Complaint and the concomitant expenses incurred as a result thereof.

WHEREFORE, plaintiff demands damages of and from the defendants, jointly and severally, in an amount in excess of the sum stated in Title 28 U.S.C. § 1332.


JACK M BERNARD
Attorney for Plaintiff